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House Passes Bill to Halt Administration’s Problematic Water Rule

In late September, the House of Representatives passed H.R. 5078, the Waters of the United States Regulatory Overreach Protection Act, by a vote of 262-152. This bill would halt the U.S. Environmental Protection Agency (EPA) and U.S. Army Corps of Engineers’ (Corps) proposed rulemaking that redefines “Waters of the U.S.” under the Clean Water Act (CWA). It would prevent the agencies from finalizing the rule and require that they consult with state and local governments to form recommendations for a consensus regulatory proposal.

The bipartisan bill managed to pull nearly three dozen Democrats into the “yes” vote column from districts in every region of the country. This strong showing sends a helpful message to regulators that the proposal has serious flaws and people from many industries in all parts of the country have serious concerns. The bill now moves to the Senate, where Sen. Roberts (R-Kansas) has already called on Majority Leader Reid (D-Nev.) to hold a vote on the House bill. However, the Senate is unlikely to do so, as Reid is reluctant to force Democrats to vote on an unpopular administration regulation just before the election.

Additionally, the bill has drawn a veto threat from the president, meaning it will not become law even if passed by the Senate. On September 9, the Association sent a letter to all four New Hampshire delegates, urging them to support HR 5078. However, Ann McLane Kuster and Carol Shea-Porter both voted in opposition to the bill. AGC will continue to educate members of Congress on this issue and will be submitting comments on the rulemaking (both by itself and as part of the Waters Advocacy Coalition) by the Oct. 20 deadline.

If you would like to submit your own comments on the rule, visit AGC’s Regulatory Action Center at https://www.bipac.net/issue_alert.asp?g=AGC&issue=wotus_rac&parent=AGC.

DOT Set to Release DBE Rule Revisions – Many of AGC of America Concerns Addressed

US Department of Transportation (DOT) is about to release revisions to its disadvantaged business enterprise utilization (DBE) rules. The new rules were first proposed in September 2012 and, while considered by DOT to be “minor” adjustments, they will have a significant impact on the highway construction industry.

Among the changes, as proposed, prime contractors on Federal-aid highway contracts with DBE goals would have been required to submit with their bid a list of all DBE subcontractors to be used on the project, including the scope of work to be performed, the value of the subcontract and a letter from the DBE verifying these facts. In addition, if the prime contractor did not meet the contract goal, information on all quotes from both DBE and non-DBE subcontractors would have to be submitted with the bid to demonstrate “good faith efforts.”

AGC objected vocally to these proposed changes, submitted extensive written comments for the record and held several meetings with top DOT officials to explain the real world impact of these changes if adopted. AGC members also responded and submitted over 100 letters on the proposal.

AGC received an advance copy of the new rules and we are pleased to announce that the new rules drop this onerous requirement and instead will allow a 7 day window following bid submittal for the apparent low bidder to submit the list of proposed DBE utilization. This time limit will be reduced to 5...
AGC’s comments also addressed numerous other proposed rule changes and many of AGC’s suggestions were adopted. The new rules adopted AGC’s comment that “race neutral” activities that can be counted by states to meet their annual DBE goals should include participation by DBEs that are awarded contracts as prime contractors, and DBE subcontractors that are awarded subcontracts on contracts that do not have a goal. AGC also recommended that states be allowed to use a list of DBE businesses that have actually participated or submitted bids on contracts as a basis for establishing annual goals.

The final rules have been presented to Secretary Foxx for his signature, which is expected and then will be published in the Federal Register within the next two weeks. Contractors can expect to see these new requirements show up in bid solicitations in the coming months. AGC will provide a detailed explanation of the rules when they are formally released.

New Report Shows Status Quo On Infrastructure Hampers Competitiveness

U.S. Manufacturers Won’t Reach Economic Potential Without Public-Private Partnership and Commitment to Infrastructure Investment

A new study commissioned by the National Association of Manufacturers (NAM) and conducted by Inforum at the University of Maryland offers a view into the economic benefits the U.S. economy would reap with a more concerted effort to address the nation’s infrastructure needs. In total, the study finds that a targeted and long-term increase in public infrastructure investments from all public and private sources over the next 15 years will:

- Increase jobs by almost 1.3 million at the onset of an initial boost;
- Grow real GDP 1.3 percent by 2020 and 2.9 percent by 2030;
- Create a progressively more productive economy, which, due to cumulative effects through time, will benefit from a $3 return on investment for every $1 invested in infrastructure by 2030; and
- Provide Americans an increase in take-home pay after taxes—a $1,300 net gain per household by 2020 and $4,400 per household by 2030 (measured in 2009 dollars).

The report also reveals a decade of troubling trends in infrastructure formation, such as a 3.5 percent drop per year in the volume of highway, road and bridge investments as well as further sharp decreases in mass transit, aviation and water transportation infrastructure investment. Last year, the NAM sounded the alarm on this troubling trend by partnering with Building America’s Future to survey manufacturers about their perspectives on the state of infrastructure in the United States. Some 70 percent responded that American infrastructure is in fair or poor shape and needs a great deal or quite a bit of improvement.

“The United States is stuck in a decade-long period of decline that will eventually harm job creation, future productivity and our ability to compete head-to-head with companies all over the globe,” said NAM President and CEO Jay Timmons. “As we sit idle, our competitors are churning out investments in their infrastructure. As this study demonstrates, substantial economic benefits result from a targeted and long-term increase in public infrastructure investments from public and private sources. Manufacturers call on Congress to consider this sobering data as it acts to fulfill its well-established responsibility of facilitating commerce in the United States. We need legislation passed to help fund transportation and infrastructure.”

“This research helps confirm what engineers and executives both know: The quality and quantity of current U.S. infrastructure is deficient, and these deficiencies are already hampering economic growth,” said University of Maryland Professor and Inforum Executive Director Jeffrey Werling.

“Industry News” continued on page 6...
New Rules for Overweight Trucks Permits Being Reviewed by JLCAR - Members Review

AGC of NH has recently been made aware of rule changes regarding overweight and oversized truck permits. While the comment deadline has passed, the Joint Legislative Committee on Administrative Rules (JLCAR) approval process is now underway. The permits authorize travel on state maintained roads and bridges over which the Department of Transportation has jurisdiction. At 27 pages long, the initial proposed rule changes appear to be a complete rewrite. The proposal includes sections on:

- Definitions on terms such as hauling unit, inclement weather, and trucks versus tractors.
- Permit requirements
- The processing and expiration of each kind of permit
- Vehicle and load markings and restrictions

To review the proposal go to www.agcnh.org. More information on the JLCAR schedule can be found on the NH General Court website at http://www.gencourt.state.nh.us/rules/JLCAR/default.htm.

Nominations Sought for Industry Ethics Award

Nominations are currently being sought for the nineteenth annual New Hampshire Construction Industry Ethics Award. The award is presented to “the individual, business or organization that, through its words and deeds, best demonstrates a commitment to upholding the highest ethical standards in construction.” The award carries with it a handsome plaque and $1,000 cash contribution to the recipient’s charity of choice.

Wood, a nationally known writer and newsletter publisher and past president of the Construction Writers Association, has championed the issue of ethics in construction. “The award is not limited to contractors,” he says. “The recipient can just as well be an architect, owner, subcontractor or private individual. What’s important is that this entity has taken an action or pattern of actions that exemplify the highest level of integrity and adherence to ethical behavior involving construction.”

“Construction people aren’t always perceived in the most stellar manner by the general public,” says Wood. “However, the overwhelming majority are good guys who play by the rules and treat their clients and building team partners with the utmost respect and honesty. I think we need to recognize and promote those people, and hopefully raise the standards for the entire industry,” he adds.

Judging for the award is done by a distinguished panel of New Hampshire industry-related individuals, people whose own integrity and judgment is universally respected, and includes past award recipients.

Nominations will be accepted through December 2, 2014, with the recipient to be announced in April. Guidelines for nominating deserving individuals and/or companies may be obtained by contacting the award’s sponsor, David “Woody” Wood, at 503 E. Deering Road, Deering, NH 03244; phone at 800-439-9663; fax 855-529-3180; or e-mail: woody@wordsfromwoody.com.

DOT Effectiveness & Efficiency

AGC of America’s Latest Stats Highlight Increase in Highway Construction Costs

On September 16th, AGC of NH’s Gary Abbott was a guest speaker for the Committee to Study the Effectiveness and Efficiency of the Department of Transportation (DOT). In the meeting, Gary presented a chart provided by Ken Simonson of AGC of America illustrating the cost increase of highway and street construction from July 2013 to July 2014. The chart indicates that key materials, such as asphalt, ready-mix concrete, and structural steel for bridges, have all increased on a year-over-year basis from last December to July.

Gary also shared his concerns regarding federal Davis Bacon wage requirements and the inequities they cause in the field. New Hampshire repealed its own state Davis Bacon Act in 1985 for the same issues. In 2010, the wage determination that was applied was not reflective of industry practices. The current inflated wage rates of some NH counties will become the basis for the next survey, perpetuating the problem. Gary further explained how the timeframe for surveying and determining rates is too short to base on accurate statistics.

When asked if there were any federal regulations that are increasing costs, Gary cited Department of Environmental Services as well as Federal Highway requirements, and suggested inviting other departments to future committee meetings to explain their specific requirements.

The Association also shared correspondences from Brian Deery, Senior Director of the Highway and Transportation Committee, AGC of America, who provided a summary of changes included in the last National Highway Fund Act and detailed problems with the federal Highway Trust Fund and its shortages.

Committee members present for the meeting included Senators Chuck Morse and Jeanie Forrester, and Representatives John Cebrowski and Alfred Leandeau. Other attendees included DOT Commissioner Christopher Clement, DOT Assistance Commissioner Jeff Brillhart, Paul Worsowicz of Gallagher, Callahan, & Gartrell, PC, and Curtis Barry of the Dupont Group.

The chart, prepared by Ken Simonson, is on the next page.

“Industry News” continued on page 13...
### Table 1: Changes in Consumer Producer & Construction Prices

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### Table 2: Changes in PPIs for Processed Goods Important to Construction

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### Table 3: Changes in PPIs for New, Repair & Maintenance Work by Subcontractors

| PCU23811X | 12 months through Dec: | to July 2014 since |
| PCU23816X | 12 months through Dec: | to July 2014 since |
| PCU23821X | 12 months through Dec: | to July 2014 since |
| PCU23822X | 12 months through Dec: | to July 2014 since |

### Table 4: Changes in ECIs for Total Compensation, Wages & Salaries

| PCUBCON | 12 months through Dec: | to July 2014 since |
| PCUBNEW | 12 months through Dec: | to July 2014 since |
| PCUBNON | 12 months through Dec: | to July 2014 since |
| PCUBNS | 12 months through Dec: | to July 2014 since |
| PCUBNSM | 12 months through Dec: | to July 2014 since |
| PCUBNSR | 12 months through Dec: | to July 2014 since |
| PCUBMR | 12 months through Dec: | to July 2014 since |
| PCUBMRM | 12 months through Dec: | to July 2014 since |

### Table 5: Changes in PPIs for Services Important to Construction

| WPU5431 | 12 months through Dec: | to July 2014 since |
| WPU5432 | 12 months through Dec: | to July 2014 since |
| WPU53012 | 12 months through Dec: | to July 2014 since |
| WPU5443 | 12 months through Dec: | to July 2014 since |

### Table 6: Changes in PPIs for Unprocessed Goods Important to Construction

| WPU0055 | 12 months through Dec: | to July 2014 since |
| WPU0056 | 12 months through Dec: | to July 2014 since |
| WPU0057 | 12 months through Dec: | to July 2014 since |

### Table 7: Changes in PPIs for Unprocessed Goods Important to Construction

| WPU0058 | 12 months through Dec: | to July 2014 since |
| WPU0059 | 12 months through Dec: | to July 2014 since |


Compiled by Ken Simonson (simonsonk@agc.org), Chief Economist, Associated General Contractors of America, www.agc.org
2014 Congressional Race:
A Side-by-Side Comparison

Election day is November 4th, so make sure you know your candidates before heading to the polls. To see how the 2014 Congressional candidates of District 2 match up on important issues, we’ve listed their positions on the economy, health care, spending, and the environment. Stay tuned for more side-by-side comparisons of other candidates in future newsletters leading up to elections.

Marilinda Garcia

Running for: District 2, U.S. House of Representatives
Party: Republican
Hometown: Salem
Education: Tufts University, New England Conservatory of Music
Website: www.marilindagarcia.com
Bio/Experience: Garcia worked for three years as a Court Appointed Special Advocate for abused and neglected children in Salem, NH. First elected in 2007, she has represented Rockingham’s 4th and 8th district.

Ann McLane Kuster

Running for: District 2, U.S. House of Representatives
Party: Democrat
Hometown: Hopkinton
Education: Dartmouth College, Georgetown University Law Center
Website: www.kuster.house.gov
Bio/Experience: Ann McLane Kuster was first elected into Congress in 2012. Prior to her time in office, she worked as a partner in the Concord law firm of Rath, Young and Pignatelli, serving as Director of the firm’s Education and Nonprofit Law Practice Group. She has focused her legal practice primarily on education, nonprofit and health care policy. Kuster served on the statewide steering committees of the presidential campaigns for both Barack Obama in 2007-2008 and John Kerry in 2003-2004. She has been a longtime community activist and has served on many non-profit boards across New Hampshire.
Marilinda Garcia

THE ISSUES:

Jobs & Economy
“I believe in new-generation leadership where government gets out of the way and lets the private sector drive economic growth and job creation.” Garcia is concerned about small businesses and believes that sluggish job growth is a direct result of Obama’s policies. She wants the government to get out of the way and allow prosperity to come from the private sector.

Health Care
“I will work to dismantle Obamacare and replace it with bottom-up reforms that allow consumers and their doctors to make decisions for themselves.” Garcia supports tax fairness so that self-insured individuals can get the same tax exclusions that employers get. She also wants consumers to be able to purchase health care across state lines. Garcia vows to help end lawsuit abuse as well as establish insurance portability to allow individuals to take their plans with them from one job to the next.

Taxes & Spending
“I will be a responsible steward of your tax dollars, challenge the status quo, and make tough decisions that will leave our country a better place for future generations.” Garcia wants to end deficit spending by balancing budgets, ending government bailouts, and repealing Obamacare. She also endorses the Bowles-Simpson commission but believes more should be done for entitlement reform such as block grants to states that would reign in spending and allow states the flexibility to administer programs more effectively.

Energy & Environment
“Protecting the environment and promoting growth need not be mutually exclusive. I will be a steadfast proponent of environmental stewardship while sustaining economic growth for New Hampshire.” Garcia believes that we have a responsibility to our home and future generations to maintain our wildlife, air, and water. She is also a proponent of smart development and marketing of natural resources.

Ann McLane Kuster

THE ISSUES:

Jobs & Economy
“While our nation’s small businesses drive job creation and economic growth, our government plays a critical role in fostering the conditions businesses need to grow, thrive, and create jobs.” Kuster introduced the Small Business Growth Through Exports Act bill to extend and expand the State Trade and Export Promotion Program. She vows to support small businesses and help create jobs for the middle class. She also wants to promote local agriculture and rural development. Kuster opposes the Marketplace Fairness Act, which would require Granite State businesses to collect and remit taxes on online sales on behalf of over 9,600 tax jurisdictions across the country.

Health Care
“I am committed to working with the business community and all stakeholders in a fiscally responsible way to lower the skyrocketing cost of medical care.” To improve access to health care for New Hampshire families, Kuster plans to protect rural health care services, support biomedical research, and fight Alzheimer’s Disease.

Taxes & Spending
“I believe that we can reduce the deficit, get back to balanced budgets, and continue to move our country forward.” Kuster introduced the CLEAN Act, a bipartisan legislation to force federal agencies to close long-empty banks accounts that no longer serve a purpose but rack up service fees for taxpayers. She has also cosponsored the Savings, Accountability, Value, and Efficiency Act and the Biennial Budgeting and Enhanced Oversight Act of 2014.

Energy & Environment
“I believe that we have a generational responsibility to protect our environment and ensure that our children and grandchildren are left with clean air and clean water.” In addition to being a member of the House Sustainability Energy and Environmental Coalition, Kuster has supported legislation defending wildlife habitat grants, protecting conservation easements, strengthening the Land and Water Conservation Fund, and advocating for pipeline safety.
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- CAT Track Excavator
  311, 312, 313, 314, 316, 318

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- Multi Terrain Loader
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- Backhoe Loader
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- Small Wheel Loader, 924, 930, 938
- Mini Excavator, 308 and smaller
- Dozer, D5 and smaller

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Leading up to general elections, legislators have begun to file proposals for 2015. To date, AGC of NH has listed some proposals that the industry may be interested in. The proposals currently only include titles, but later this year the Association Committees will review them when more details are made available.

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<td>Repealing the property tax exemption for water and air pollution control facilities.</td>
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AGC of America to Offer Highway Work Zone Safety Programs in 2015

The Associated General Contractors of America will provide highway work zone safety training classes next year thanks to a federal safety grant the association earned. The association will use the $135,000 Susan Harwood Training Grant from the U.S. Department of Labor to offer the safety training classes designed to prevent injuries among highway, street and bridge construction workers, officials said.

“No amount of safety gear will protect a worker if they get hit by a speeding vehicle,” said Stephen E. Sandherr, the association’s chief executive officer. “The best defense from crashes is teaching crews how to set up and operate safer work zones”

According to the latest federal safety data, from 2003 – 2010, 962 workers were killed at road construction sites between 2003 and 2010. Meanwhile, a survey conducted by the association last spring found that 45 percent of contractors had vehicles crash into their work zones during the past year. Even worse, workers are injured in 20 percent of those crashes and killed in 6 percent of those crashes.

The highway work zone safety program will be offered in eight different locations beginning in January 2015. Sandherr added that association expects the training to have the impact of reaching and protecting thousands of workers on hundreds of job sites by incorporating best practices that will be used over and over. The program will provide comprehensive information about proper set up of highway work zones, flagger safety and heavy equipment management, he added.

AGC of NH Invited to Help the State Building Code Review Board

On October 2nd, AGC of NH President Rich Upsall received a letter from the New Hampshire State Building Code Review Board Chairman Shawn Bergeron, inviting members to participate in the Code reviewing process and attend the next meeting. The letter is detailed below:

In June of this year, the State Building Code Review Board began the process of reviewing the 2015 International Codes to determine if they should be recommended as the Building Code for the State of New Hampshire. Over the next few months we will be working towards reaching a decision, hoping to reach our conclusion in early 2015. As the chairman of the New Hampshire Building Code Review Board I am reaching out to ask that the Associate General Contractors of New Hampshire consider assisting us as we work through this process. As a volunteer board of industry-related professionals, we take our role seriously and we understand the importance of our decisions. Our seventeen members represent only a small percentage of people that will be affected by our conclusions, so in order to get this right, we want to hear the thoughts of as many others as possible. Ultimately, if we decide to recommend to the Legislature that the 2015 Codes are indeed correct for New Hampshire, we want to make sure our recommendation represents a consensus of many, not a conclusion of only a few. To that end please make your members aware that we would like to hear their opinions and let them know they are welcome to attend our meetings over the next few months as we work our way through this process. Building safety affects everyone so everyone should have the opportunity to have their thoughts heard.

The future meeting schedule of the State Building Code Review Board will be held on Friday, October 10 and Friday, November 8 from 10 AM to 12 PM in the 2nd Floor Conference Room at 33 Hazen Drive, Concord, NH. For more information, call (603) 223-3888.
Association News

AGC of NH Committees now Accepting New Members

If you have been looking to get more involved at AGC of NH, now is the perfect opportunity to sign up for the 2015 committees. Managed and driven by members, committees are the foundation for the Association’s policies and activities.

Current committees include:
• Asphalt Committee
• Building Committee
• Concrete Committee
• Environment Committee
• Highway Committee
• Highway Specification Committee
• Human Resource Committee
• Legislative Committee

Joining a committee is a great way to expand your membership experience with AGC of NH and become an active participant in the Association’s efforts. The committees will be finalized in December, so please submit a form today. The signup form is available online via the Downloads page at www.agcnh.org as well as on page 15 of this newsletter.

Are You on the Plans Room Email List?

Every Tuesday, AGC of NH issues its plans room newsletter to alert members of new projects and lowest bids in the state. The newsletter also lists project addenda and contact information. In conjunction with the newsletter, all plans are available in hard copy for members to review at the AGC of NH office in Bow.

If you are not on the email list and would like to receive the plans room newsletter, please email Katrina at plansroom@agcnh.org.

Register Today - Space is Limited!

The Associated General Contractors of NH presents the final seminar in its lunch & learn Series

Employee Misclassification

Wednesday, November 19th, 11:30 am - 1:30 pm
(lunch is provided)

Instructor: Ron Ciotti, Hinckley Allen

FREE TO AGC OF NH MEMBERS—SPACE IS LIMITED
To Register Call (603) 225-2701 or email Bobbie at bcaradonna@agcnh.org

Sponsored By: Bernstein Shur

COUNSELORS AT LAW
AGC of NH committees are the foundation for the Association’s policies and activities. If you’ve been looking for a way to get involved, this is your opportunity! Sign up for a committee today and start making a difference!

Many committees play a part in the Association’s lobbying functions. Member driven, they make decisions on which bills to support, oppose, monitor, etc., as well as offer their expertise in topic specific areas. Joining a committee is a great way to expand your membership experience with AGC of NH and become an active part in the Association.

Please check off the boxes below to indicate which committees you are interested in and complete the form below.

- **Asphalt Committee**
  As part of a partnership between AGC of NH and the NH Department of Transportation, this committee meets to review asphalt paving quality assurance specifications.

- **Building Committee**
  This committee’s focus is on legislation that will affect vertical construction. Code revisions, construction methods and contract documents are just a few of the topics discussed. Meetings with agency leaders are common with this group.

- **Concrete Committee**
  As part of a partnership between AGC of NH and the NH Department of Transportation, this committee meets to review concrete quality assurance specifications.

- **Environment Committee**
  In addition to working on environmental laws, rules & regulations, this committee also works closely with NH Department of Environmental Services. This group is composed of contractors, aggregate suppliers, and environmental & legal consultants.

- **Highway Committee**
  This committee is charged with monitoring local, state and federal legislation that involves horizontal construction. Wage regulations, construction methods, and transportation funding are common topics among this group.

- **Highway Specification Committee**
  Working closely with the NH Department of Transportation, this group reviews and recommends language for state specifications.

- **Human Resources Committee**
  Issues, such as workers’ comp., health insurance, and employer rights, are a very important part of any business. Between a variety of roundtable discussions, forums, and meetings with agency leaders, the committee discusses many important labor related topics.

- **Legislative Committee**
  The Legislative Committee is the first stop in the Association’s legislative process. The group reviews all of the bills that may impact the commercial construction industry, and recommends the appropriate action for AGC of NH to take.

The Association also has three specialty committees: Government Relations, Political Action, and A Safer Road to Tomorrow PR Campaign. Members of these committees are chosen by the Board of Directors.

**Want To Lead A Committee?**

☐ Please check this box if you are interested in being chair of a committee in the future ____________

Name of Committee ____________

Duplicate this form for multiple participants. Fax to (603) 226-3859 or mail to AGC of NH, 48 Grandview Road, Bow, NH 03304.

Name: ____________________________

Company: ____________________________

Phone: ____________________________ Email: ____________________________

* Those currently serving on a committee must notify AGC of NH if they wish to continue serving in 2015.
** Committee appointments are made by the incoming president. Members will be notified of their appointment.
DISCOUNT PRICING
for AGC of NH MEMBERS

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How to Sign up
Visit www.mynpp.com, select Company then Construction then Residential. Select AGC-Participating Chapters from the dropdown menu and complete enrollment.